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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,547	02/05/2002	Jurgen Neumann	13178	9911

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/01/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

FILE

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**Office Action Summary**

Application No.

10/068,547

Applicant(s)

NEUMANN ET AL.

Examiner

Ula C Ruddock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.                      6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14, drawn to catalyst gauze, classified in class 442, subclass 2.
  - II. Claims 15-17, drawn to a process for making catalyst gauze, classified in class 66, subclass 170.
  - III. Claims 18-20, drawn to a process for using catalyst gauze, classified in class 75, subclass 410.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions III and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used in a homogeneously catalyzed gas reaction.
3. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another process, i.e. by using a different type of knitting machine, e.g. Raschel.

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4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Sylvia Choi on May 15, 2003, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blass et al. (US 6,073,467) in view of Fairey et al. (US 5,188,813). Blass et al. disclose catalyst gauzes for

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gaseous reactions. The catalyst gauzes are knitted and are made from noble metals. The catalyst gauzes can be knitted into two or more layers and the layers are connected together by pile threads (abstract). The noble metal used is platinum/rhodium (claim 4). With regard to claim 10, the pile threads are as parallel as possible (i.e.  $0^\circ$ ) to the direction of flow of the reactions gases (abstract). Blass et al. disclose the claimed invention except for the teaching that the catalyst gauze contains weft thread that are inserted into the gauze.

Fairey et al. disclose a fabric knitted from a precious metal fiber that is used as a catalyst gauze (abstract). A supplementary fiber is "co-fed" into the fabric. It is the Examiner's position that the supplementary fiber of Fairey et al. can be equated to the weft thread disclosed in the present invention. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed Fairey's supplementary fiber between the mesh layers or into the pile threads of Blass et al., motivated by the desire to create a sturdier fabric.

With regard to claims 9 and 11-14, it has been held that fiber diameter, mesh thickness, mesh weight per unit area, and the amount of rhodium in a platinum-rhodium alloy are result effective variables. For example, the greater the fiber diameter and mesh thickness, the greater the strength of the fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the wire diameters disclosed in claim 9, the mesh thickness and the mesh basis weight disclosed in claim 11, and mesh, pile, and weft threads composed of 4-12% rhodium in a platinum-rhodium alloy, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*,

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617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized these amounts, motivated by the desire to create a fabric with increased strength and durability and to create a catalyst gauze with increased gas reaction efficiency.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

Ula C. Ruddock *UCR*  
Patent Examiner  
Art Unit 1771  
7/27/2003

*Ula Ruddock*